

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

TIMOTHY W. CLAY, )  
Plaintiff, )  
vs. ) No. CIV-09-370-W  
STATE OF OKLAHOMA et al., )  
Defendants. )

## **ORDER**

On June 1, 2009, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this matter and recommended that the Court dismiss this action without prejudice to refiling because plaintiff Timothy W. Clay inter alia had failed to respond to an Order issued by Magistrate Judge Roberts on May 1, 2009, had failed to pay the necessary filing fee and had failed to cure the deficiencies in his Motion for Leave to Proceed in Forma Pauperis [Doc. 6] file-stamped April 30, 2009. Clay was advised of his right to object to the Report and Recommendation.

Clay has not objected to the Report and Recommendation within the designated time; he has however submitted a second Motion for Leave to Proceed in Forma Pauperis [Doc. 9] arguably to cure the deficiency<sup>1</sup> noted by Magistrate Judge Roberts in her Order [Doc. 7] filed on May 1, 2009.

Upon review of the record, the Court

(1) DECLINES to adopt the Report and Recommendation [Doc. 8] issued on June

<sup>1</sup>Magistrate Judge Roberts found that Clay had failed to submit a certified copy of his institutional accounts statement for the six-month period immediately preceding the filing of his Motion for Leave to Proceed in Forma Pauperis. See Order to Cure Deficiency [Doc. 7]; 28 U.S.C. § 1915(a)(2).

1, 2009; and

(2) RE-REFERS this matter to Magistrate Judge Roberts for future proceedings, including action on Clay's Motion for Leave to Proceed in Forma Pauperis [Doc. 9] file-stamped June 23, 2009.

ENTERED this 24<sup>th</sup> day of June, 2009.

  
LEE R. WEST  
UNITED STATES DISTRICT JUDGE